



NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1213

[FDMS No. NARA-22-0008; NARA-2022-044]

RIN 3095-AC08

Agency Guidance Procedures

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: We are amending our regulations on general procedures applying to guidance documents NARA and its components issue. We are removing provisions added to comply with requirements in the Executive order of October 9, 2019, “Promoting the Rule of Law through Improved Agency Guidance Documents,” which was revoked by the Executive order of January 20, 2021, “Revocation of Certain Executive Orders Concerning Federal Regulation.”

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Regulatory and External Policy Program (MP); Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740-6001.

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at regulation_comments@nara.gov, or by telephone at 301.837.3151. Contact rmstandards@nara.gov with any questions on electronic records management.

SUPPLEMENTARY INFORMATION:

Regulatory analysis

Executive Order 12866, Regulatory Planning and Review, and Executive Order 13563, Improving Regulation and Regulation Review

The Office of Management and Budget (OMB) has reviewed this rulemaking and determined it is not “significant” under section 3(f) of Executive Order 12866. It is not significant because it involves agency internal procedures and is minor and administrative in nature and the changes are being made to align with the executive order. There is also not a public comment period on this revision, for good cause.

Regulatory Flexibility Act (5 U.S.C. 601, et seq.)

This review requires an agency to prepare an initial regulatory flexibility analysis and publish it when the agency publishes the proposed rule. This requirement does not apply if the agency certifies that the rulemaking will not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 603). We certify, after review and analysis, that this rulemaking will not have a significant adverse economic impact on small entities.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et seq.) requires that agencies consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from OMB for each collection of information we conduct, sponsor, or require through regulations. This rulemaking does not impose additional information collection requirements on the public that are subject to the Paperwork Reduction Act.

Executive Order 13132, Federalism

Executive Order 13132 requires agencies to ensure state and local officials have the opportunity for meaningful and timely input when developing regulatory policies that may have a substantial, direct effect on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. If the effects of the rule on state and local governments are sufficiently substantial, the agency must prepare a Federal assessment to assist senior policy makers. This rulemaking will not have any

effects on state and local governments within the meaning of the E.O. Therefore, no federalism assessment is required.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4; 2 U.S.C. 1532)

The Unfunded Mandates Reform Act requires that agencies determine whether any Federal mandate in the rulemaking may result in state, local, and tribal governments, in the aggregate, or the private sector, expending \$100 million in any one year. NARA certifies that this rulemaking does not contain a Federal mandate that may result in such an expenditure.

List of Subjects in 36 CFR Part 1213

Administrative practice and procedure.

For the reasons discussed in the preamble, NARA amends 36 CFR part 1213 as follows:

PART 1213 – AGENCY GUIDANCE PROCEDURES

1. The authority citation for part 1213 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

§ 1213.4 [Amended]

2. Amend § 1213.4 by:

- a. Removing paragraph (b)(2)(v) and redesignating paragraphs (b)(2)(vi) and (vii) as paragraphs (b)(2)(v) and (vi);
- b. Adding the word “and” at the end of newly redesignated paragraph (b)(2)(vi);
- c. In paragraph (b)(3), removing “; and” and adding a period in its place;
- d. Removing paragraph (b)(4); and
- e. In paragraph (f), removing “§ 1213.6(a)” and adding “§ 1213.6” in its place.

§ 1213.6 [Amended]

3. Amend § 1213.6 by:

- a. Removing paragraphs (b) and (c); and
- b. Removing the paragraph designation from paragraph (a) and removing the last sentence of the paragraph.

§ 1213.8 [Amended]

4. Amend § 1213.8(d) by removing “, set forth in E.O. 12866, E.O. 13563, E.O. 13609, E.O. 13771, and E.O. 13777” from the end of the last sentence.

§ 1213.14 [Removed]

5. Remove § 1213.14.

David S. Ferriero,

Archivist of the United States.

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